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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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10 Rick Steele Sagaser, Jr., )

11 Petitioner, )

12 vs. )

13 Dora B. Schriro, et al., )

14 Respondents. )

No. CV-08-1267-PHX-PGR (GEE)

ORDER


15 Having considered *de novo* the Report and Recommendation of Magistrate  
16 Judge Edmonds notwithstanding that no party has filed any objection to the  
17 Report and Recommendation, the Court finds that the Magistrate Judge correctly  
18 determined that the petitioner's Petition for a Writ of Habeas Corpus, filed  
19 pursuant to 28 U.S.C. § 2254, must be denied because the claim underlying the  
20 petition, *i.e.* that the petitioner is being held in custody past the expiration date of  
21 his state court sentence, has not been exhausted given that the petitioner, as he  
22 concedes, has not submitted it to the Arizona courts for resolution, and because  
23 the petition fails to state a federally cognizable claim as it is based on an alleged  
24 misapplication of state sentencing laws that does not rise to the level of  
25 fundamental unfairness. Therefore,

26 IT IS ORDERED that the Magistrate Judge's Report and Recommendation

1 (doc. #12) is accepted and adopted by the Court.

2 IT IS FURTHER ORDERED that the petitioner's Petition Under 28 U.S.C.  
3 § 2254 for a Writ of Habeas Corpus by a Person in State Custody is denied and  
4 that this action is dismissed. The Clerk of the Court shall enter judgment  
5 accordingly.

6 DATED this 14<sup>th</sup> day of January, 2009.

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10 Paul G. Rosenblatt  
11 United States District Judge  
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